

CEEO

22 February 1996

MEMORANDUM FOR ALL USACE EEO Officers

SUBJECT: OCI and Mediation -- Complaints Policy #96-1

1. References:

a. Memorandum, HQDA, SFMR-RBE, 30 January 1996, subject: DODOCI Meeting (enclosed).

b. Engineer Circular 690-1-693, 30 April 1995, subject: Corps of Engineers Early Resolution Program (CEERP) Pilot Test.

c. Memorandum, HQUSACE, CEEO, 6 October 1994, subject: Equal Employment Opportunity - Corps of Engineers Early Resolution Program (CEERP) Pilot Test.

2. The Corps will not accept offers of the DOD Office of Complaints Investigation (OCI) to "mediate" formal complaints of discrimination, but will participate with OCI in conciliation efforts, i.e., in seeking resolution during pre-investigation conferences.

a. Under the Corps of Engineers Early Resolution Program (CEERP), mediation will have already been offered at the pre-complaint stage. Since mediation either was declined by the complainant or was unsuccessful at the pre-complaint stage, mediation will not be offered again;

b. Redundant attempts at "mediation" by OCI would delay the investigation of complaints and increase processing costs;

c. Although, settlement efforts by OCI are called "mediation", OCI investigators do not consistently use recognized mediation techniques;

d. Most importantly, mediation by an investigator creates a conflict of position. In true mediation, the content of discussions, any notes or documents generated, and the conclusions, recommendations and/or opinions of the mediator can not be used in future processing or consideration of the complaint by either party--management or employee. The investigator cannot be expected to forget everything seen and heard during unsuccessful mediation sessions, discount any opinions formed, and then conduct an investigation impartially and *de novo*.

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3. Any inference of coercion from an investigator to use mediation should be reported to this headquarters, ATTN: CEEEO, immediately.

4. This guidance has been coordinated with the Chief Counsel and the Director of Human Resources.

5. Please refer your questions to Jim Huffman, 202-761-8706.

FOR THE COMMANDER:

Enclosure

/S/  
ANITA G. GOMEZ-BENNETT  
Chief, Office of Equal  
Employment Opportunity

CF:  
Labor Counselors  
HR Officers